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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-785

CHICAGO HOUSING AUTHORITY,

Petitioner,

vs.

DOROTHY GAUTREAUX, ET AL.,

Respondents.

REPLY OF PETITIONER, CHICAGO HOUSING AUTHORITY, TO BRIEF FOR THE RESPONDENTS IN OPPOSITION.

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Petitioner, Chicago Housing Authority (CHA), is compelled to reply to the serious misstatement of fact with which respondents begin their brief in opposition to the petitions for certiorari in this and No. 73-784. Respondents open their "Question Presented" section with a claim that the issues must be considered against a back drop of a "long and frustrating non-compliance with a remedial public housing desegregation order" (p. 2).

In plain english what respondents charge is that CHA has for a long time—apparently since 1969—customarily refused to obey one or more orders of the district court in this cause; that CHA has, in short, been in contempt of court.

The charge of respondents that CHA is now or ever has been in "non-compliance" with any court order is false.

In July 1970, the district court supplemented its July 1969 order on CHA (App. A) by requiring CHA to report on its activities and by requiring CHA to submit a list of proposed housing sites to the City of Chicago by a specified time. (It should be mentioned here that CHA did not appeal the original 1969 order.) CHA promptly complied with the former provision of the July 1970 order by filing a detailed written report of its past activities and of its future plans to achieve the goals of the judgment order (Aug. 14, 1970 tr. pp. 2, 3). CHA appealed so much of the order of July 20, 1970 as imposed deadlines for the submission of sites sufficient to provide 1,500 units of housing within the City of Chicago. The Court of Appeals stayed the portion of the July 1970 order appealed from pending its decision. CHA's efforts on appeal were not successful*, and it submitted the sites to the City of Chicago on March 5, 1971.

Immediately thereafter, these respondents initiated evidentiary hearings on the subject matter of CHA activities under the 1969 judgment order (see Transcripts of March 9, 11, and 12, 1971). At these hearings the district court said that the record should show that CHA "vigorously denies" that it ever violated the order of July 1969, and CHA challenged respondents to bring charges against CHA if it, in their view, was violating any order of the court (March 11-12, 1971, Tr. pp. 22, 148). These hearings concluded on April 16, 1971 with an agreed order, suggested by CHA in an effort to put to rest respondents' criticisms of CHA's performance (April 16, 1971 tr. pp. 1-7), reading as follows:

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* See 436 F. 2d 306 (Judge Kiley dissenting), cert. den. 402 U. S. 922 (Justice Douglas dissenting).

> A hearing was held in chambers and is continued until further motion by either of the parties. The Chicago Housing Authority has agreed to make quarterly reports, commencing June 30, 1971 concerning its progress in complying with the courts order, and it is so ordered.

CHA has been complying with that order ever since; on October 1, 1973 it filed its 10th quarterly report pursuant to the agreed order of April 16, 1971. At no time have respondents suggested that CHA's voluminous quarterly reports were inadequate.

Furthermore, at no time in the history of this complicated and protracted litigation have respondents initiated any form of contempt action against CHA for its alleged non-compliance with either the Judgment Order of 1969 or with any other order entered upon it. Nor has there ever been a finding of fact that CHA has ever been in "non-compliance" with any order of the district court.

Although never presenting for decision in an appropriate manner the question of whether CHA has failed to comply with any order of the district court, respondents have persistently befogged the issues in this difficult litigation by suggestions that CHA has been derelict in obeying court orders. CHA has and will continue to challenge these false charges whenever they are presented and from whatever source they originate. Typical exchanges with respect to respondents' insinuations are in the transcripts for May 28, 1972 (p. 87) and September 28, 1972 (pp. 16, 17, 18, 25 and 26).

The issues presented by the petitions for certiorari in this cause and in No. 73-784 are important and require the attention of this Court. As we have pointed out, there is no basis for the contention of respondents that those issues are to be considered

with a "long and frustrating non-compliance with a remedial public housing desegregation order" in the background. This matter has certainly been long and frustrating for all of the participants. But at no time has CHA failed to comply with any order of any court.

Respectfully submitted,

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APPENDIX.

[Caption Omitted]

ORDER.

(Entered July 20, 1970)

This matter coming on to be heard on the presentations of the parties, and

It having been represented to the Court by the defendant Chicago Housing Authority ("CHA") that CHA presently has a "reservation" from the United States Department of Housing and Urban Development ("HUD") for the provision of 1,500 Dwelling Units (as defined in this Court's judgment order of July 1, 1969; that approximately 260 sites in the General Public Housing Area (as defined in said order of July 1, 1969) have been identified by CHA as appropriate for the construction of an estimated 1,580 Dwelling Units; that said sites have been submitted by CHA to HUD and that the same have been approved by HUD; and that the next steps to be taken by CHA to the end that Dwelling Units may be provided as rapidly as possible in conformity with said order of July 1, 1969, are the referral by CHA of proposed sites to the Chicago Plan Commission pursuant to Chapter 24, § 11-12-4.1, Ill. Rev. Stats. 1969, and advice of the same to the Chicago City Council pursuant to Chapter 67½, § 9, Ill. Rev. Stats. 1969; and

It appearing to the Court that it is desirable that CHA use its best efforts to increase the supply of Dwelling Units as rapidly as possible as provided in said judgment order;

It is hereby ordered, pursuant to Subsection A of Article VIII of the Judgment Order entered herein on July 1, 1969, as modified:

I. On or prior to August 14, 1970, CHA shall submit to the Court a written Report setting forth the action taken and to be taken by it to comply with said Subsection, which Report

shall include detailed information concerning, but need not be limited to, the following:

A. *Action taken prior to the date of Report respecting,*

1. Identification (in any appropriate manner) of sites for Dwelling Units which do not require zoning changes.

2. Identification (in any appropriate manner) of sites for Dwelling Units which require zoning changes, and action take, if any, to secure such changes.

3. Employment, if any, of the "turnkey" method or any variation thereof of supplying Dwelling Units.

4. Agreements with other official bodies, including other housing authorities, to increase the supply of Dwelling Units.

5. Proposals, requests, etc., if any, submitted by CHA to the Department of Housing and Urban Development for additional "reservations" for Dwelling Units, or relating to other action designed to increase the supply of Dwelling Units.

B. *Future Plans*

A detailed statement, including information in the categories listed under "A" above, of the number of Dwelling Units to be provided, and the anticipated locations thereof, over the 12, 24 and 36 month periods following the date of the Report, including a statement as to how such provision of Dwelling Units is to be achieved.

To the extent the future plans referred to under "B" above have not been prepared, CHA shall promptly prepare the same.

CHA shall confer with counsel for the plaintiffs during the preparation of such Report and make full disclosure to them of all matters necessary or appropriate to the preparation of the same to the end that such Report shall be as comprehensive and detailed as possible and shall constitute a statement respecting the matters to be covered thereby which has been agreed to by the parties. Any issues of privilege or confidentiality shall be

promptly submitted to the Court for resolution to the extent the parties are unable to settle the same among themselves.

II. On or prior to August 20, 1970, CHA shall refer to the Chicago Plan Commission pursuant to ch. 24, § 11-12-4.1, Ill. Rev. Stat. 1969, and on or prior to September 20, 1970 CHA shall advise the Chicago City Council pursuant to ch. 67½, § 9, Ill. Rev. Stat. 1969 of, sites appropriate for the construction, in conformity with the provisions of said Judgment Order of July 1, 1969, of not fewer than 1,500 Dwelling Units.

ENTER:

.....

Judge, United States District Court

July 20, 1970.